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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/321,360	05/27/1999	MICHAEL F. GUHEEN	AND1P101	6371
22908	7590	05/19/2005	EXAMINER	
BANNER & WITCOFF, LTD. TEN SOUTH WACKER DRIVE SUITE 3000 CHICAGO, IL 60606			ROBINSON BOYCE, AKIBA K	
			ART UNIT	PAPER NUMBER
			3639	

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/321,360

Applicant(s)

GUHEEN ET AL.

Examiner

Akiba K Robinson-Boyce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. Due to communications filed 3/3/05, the following is a non-final rejection. Claims 1-19 are pending in this application and have been examined on the merits.

Prosecution has been re-opened for this case. The previous office action has been withdrawn and claims 1-19 are now rejected as follows.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 1-6 are rejected under 35 U.S.C. 101 because the claimed invention is directed to a non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of :

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful art" (i.e., the physical sciences as

opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, claim 1 is directed to a method for displaying phases in which components of a system for providing a web architecture framework are delivered. Claim 1 recites the steps of "displaying a pictorial representation...", "compiling a listing of additional components...", "determining a first set of the additional components...", "determining a second set of additional components...", "modifying the pictorial representation of the existing system to show a pictorial representation of the first set...". These steps do produce a tangible result, however they represent mere ideas in the abstract since they do not recite computer software or hardware embedded on a tangible medium for processing the steps of this claim. Since no computer software or hardware embodied on a tangible medium is present in this claim, this claim and all claims that depend from this claim (Claims 2-6) are therefore found to be non-statutory.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1, 4, 5, 6, 7, 10, 11, 12, 13, 16, 17, 18 and 19 are rejected under 35 U.S.C. 103(a) as being obvious over Rassman, et al (US Patent 4,937,743).

As per claims 1, 7, 13, Rassman, et al discloses:

displaying a pictorial representation of an existing system including a plurality of components, (Col. 2, lines 59-65, [information about available resources in a provided database is being graphically displayed], Col. 14, lines 13-16; Fig. 7, [shows how resources 123, 233, 224 {which represent components} are displayed]);

compiling a listing of additional components for implementation into the existing system/...compiles a listing of additional components for implementation into the existing system, (Col. 3, lines 7-11, [discloses that the resource information in the database can be updated to have the most recent data {resource information}]);

determining a first set of the additional components for implementation in a first implementation phase/...determines a first set of the additional components for implementation in a first implementation phase, (Col. 4, lines 58-65, [resource information in the primary database], (Col. 8, lines 8-10, [shows primary resource is planned according to a given block of time {phase} represented by a "cell"]));

determining a second set of additional components for implementation in a second implementation phase/...determines a second set of additional components for implementation in a second implementation phase, (Col. 4, line 66-Col. 5, line 8, [resource information in the secondary database], Col. 8, lines 21-24, [shows secondary resource is represented by a "cell", which represents a given block of time {phase}]);

modifying the pictorial representation of the existing system to show a pictorial representation of the first set of components being indicia coded to indicate that they are to be delivered in the first phase/...modifies the pictorial representation of the first set of components being indicia coded to indicate that they are to be delivered in the first phase (Col. 3, lines 10-11, [displaying resource utilization for the most recent data after data in resource database is updated], Col. 6, lines 20-22 and lines 25-26, [shows that primary resources {first set of components} are displayed], Col. 14, lines 12-16 and Fig. 7, where the components [represented by resources] for the first phase are indicia coded by the vertical rectangles labeled "Y" One for phase one)

modifying the pictorial representation of the existing system to show a pictorial representation of the second set of components being indicia coded in a manner unique with respect to the indicia coding of the first set of components to indicate that the second set of components is to be delivered in the second phase/...modifies the pictorial representation of the existing system to show a pictorial representation of the second set of components being indicia coded in a manner unique with respect to the indicia coding of the first set of components to indicate that the second set of components is to be delivered in the second phase, (Col. 3, lines 10-11, [displaying resource utilization for the most recent data after data in resource database is updated], Col. 6, lines 20-22, lines 27-36, [shows secondary resources are displayed], Col. 14, lines 12-16 and Fig. 7, where the components [represented by resources] for the second phase are indicia coded by the vertical rectangles labeled "Y" Two for phase two);

As per claim 1, computer programs, code segment and logic, and a processor that executes computer-executable instructions for performing the logic are inherent with Rassman, et al's system because since he teaches that his method is carried out in a computer system, computer programs using code segments, logic, and a processor that executes computer-executable instructions for performing the logic is absolutely necessary for the computer to successfully process information and produce results.

The following is also inherent with Rassman, et al since this patent discloses the "management of a plurality of interrelated and interdependent resources using a computer system". In Web technology, a web architecture framework consists of a plurality of interrelated and interdependent computer resources, both hardware and software. Therefore Rassman teaches:

a system for providing a web architecture framework...

As per claims 2, 8, 14, Rassman, et al discloses:

wherein a legend is presented which defines the indicia coding...(Col. 7, lines 11-18, Col. 8, lines 5-7 [indicia is being used to define an item]).

As per claims 4, 10, 16 Rassman, et al discloses:

wherein the components of the existing system are selected from the group of components including...customer-related services...(Col. 4, lines 36-42, Col. 5, lines 51-53, [hospital services are customer-related where the patient is the customer]).

As per claims 5, 11, 17, Rassman, et al discloses:

wherein the indicia coding is selected from the group of indicia coding including texture coding, color coding...(Col. 6, lines 11-5).

As per claims 6, 12, 18, Rassman, et al discloses:

wherein the step of displaying a pictorial representation of an existing system including a plurality of components also includes displaying additional components that may be implemented into the system, (Col. 3, lines 10-11, [displaying resource utilization for the most recent data after data in resource database is updated]).

As per claims 6, 12, and 18, the following is inherent with Rassman, et al since this patent discloses the "management of a plurality of interrelated and interdependent resources using a computer system". In Web technology, a web architecture framework consists of a plurality of interrelated and interdependent computer resources, both hardware and software. It would therefore be inherent to incorporate hardware and software components of web architecture since they can be managed and visually represented as described in Rassman:

a system for providing a web architecture framework...

As per claim 19, Rassman et al discloses:

In response to (c), determining remaining components, (Col. 7, lines 55-57, [where it shows that the remaining operating rooms could be scheduled in a similar fashion as the first set of operating rooms in "Case abc"]);

Separating the remaining components into primary components and secondary components, wherein the primary components must be installed before the secondary components can function properly, (Col. 12, lines 19-25, [shows separation of primary and secondary resources by selecting certain resources as the primary and secondary resources])

Including the primary components in the first set of additional components/Including the secondary components in the second set of components, (col. 12, lines 25-31, [shows separation of primary or secondary resources by selecting certain resources as primary/secondary resources, where operating rooms O represents the primary component, and surgeon S, anesthesiologist, A, etc. represent the secondary component]).

6. Claims 3, 9, 15, are rejected under 35 U.S.C. 103(a) as being unpatentable over Rassman, et al (US Patent 4,937,743) as applied to claims 1, 7 and 13 above, and further in view of Turnbull (US Patent 5,208,765).

As per claims 3, 9, 15, Rassman, et al fails to teach wherein the components of the existing system are selected from the group of components including operation services and developer services. Rassman et al would have utilized operation services and developer services with the motivation of accurately scheduling, monitoring and managing resources of the system.

However Turnbull discloses wherein the components of the existing system are selected from the group of components including operation services and developer services in Col. 2, lines 27-30 in an analogous art for the purpose of properly operating on and developing the product in order to indicate the completion status.

It would have been obvious to one of ordinary skill in the art to select the components of the system from the group of components including operation services and developer services and incorporating these components from Turnbull into

Rassman with the motivation of operating on and developing products so they can be successfully scheduled, monitored and managed.

As per claims 3, 9, 15, the following is inherent with Rassman, et al since this patent discloses the "management of a plurality of interrelated and interdependent resources using a computer system". In Web technology, a web architecture framework consists of a plurality of interrelated and interdependent computer resources, both hardware and software. It would therefore be inherent to incorporate hardware and software components of web architecture since they can be managed and visually represented as described in Rassman:

a system for providing a web architecture framework...

Response to Arguments

7. Applicant's arguments in the appeal brief filed 3/3/05 have been fully considered but they are not persuasive.

As per claim 1, that applicant argues that Rassman merely teaches continuous updating of information for existing components and does not teach "compiling a list of **additional components** for implementation into the existing system". However, in Col. 7, lines 55-57, Rassman discloses that the remaining operating rooms could be scheduled in a similar fashion as the first set of operating rooms in "Case abc". These remaining components represent the additional component since they are components that can be implemented into the system at a different time as a first set of components.

The applicant argues that Rassman does not suggest scheduling a second room to "Case abc". However, col. 7, lines 55-57 of Rassman shows that remaining operating rooms are scheduled in a similar fashion to that of "Rm 1" for "Case abc".

As per claim 1, the applicant also argues that the office action fails to disclose "determining a second set of additional components for implementation in a second implementation phase". The applicant argues that Rassman's primary data base and the supplemental (transitory) data base merely store information about "a given resource" (same component) and does not relate to an additional component and merely teaches about displaying a secondary resource. However, in Col. 6, lines 20-22, lines 27-36, Rassman shows secondary resources are displayed, and in Col. 14, lines 12-16 and Fig. 7, where the components [represented by resources] for the second phase are indicia coded by the vertical rectangles labeled "Y" Two for phase two. These secondary resources do not just represent existing resources, but do represent the second set of components since as disclosed in the preceding paragraph, Rassman does disclose "additional components" in Col. 7, lines 55-57.

As per claims 7 and 13, these claims are rejected for the same reasons as disclosed above with respect to claim 1, and are therefore rejected for the same reasons.

As per claim 19, the applicant argues that the office action fails to show a teaching that suggests the feature of separating the remaining components into primary components and secondary components. However, this claim is rejected for the same reasons as discussed above with respect to claim 1 as being disclosed in Col. 6, lines

20-22, and lines 27-36 of Rassman. It is here that Rassman discloses secondary components.

As per claims 1, 7 and 13, the applicant argues that Rassman does not inherently teach a system providing web architecture framework. However, since Rassman discloses the management of a plurality of interrelated and interdependent resources using a computer system, this limitation is taught since a web architecture framework consists of a plurality of interrelated and interdependent computer resources, both hardware and software in web technology. Although it is true that Rassman's examples of resources generally relate to medical resources, relating the resources to web technology applies to this reference since Rassman's main focus is to provide the prospective scheduling and real time dynamic management of a plurality of interdependent and interrelated resources using a computer system for communicating information as shown in Col. 1, lines 7-12, and web architecture framework involves interdependent and interrelated resources such as a web server and a database and/or a gateway.

As per claims 2, 8 and 14, the applicant argues that the office action fails to show a teaching that teaches a presented latent which defines the indicia coding claim and fails to disclose a table or listing of the symbols (corresponding to the different indicia). However, Col. 2, line 67-Col. 3 line 11 of Rassman shows that different types of indicia such as "scheduling indicia", "status indicia" and "conflict indicia" can be used for different scenarios. It is further shown that access to a data base to permit updating of

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the stored information is provided. Since the stored information includes indicia, one can conclude that the indicia makes up a part of the table in the database.

As per claims 4, 5, 6, 10, 11, 12, 16, 17 and 18, these claims ultimately depend from claims 1, 7, and 13 and are rejected for the same reasons as discussed above with respect to claims 1, 7 and 13.

As per claims 3, 9 and 15, these claims are depend from claims 1, 7 and 13 and are therefore rejected for the same reasons as discussed above with respect to claims 1, 7 and 13.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akiba K Robinson-Boyce whose telephone number is 571-272-6734. The examiner can normally be reached on Monday-Tuesday 8:30am-5pm, and Wednesday, 8:30 am-12:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7238 [After final communications, labeled "Box AF"], 703-746-7239 [Official Communications], and 703-746-7150 [Informal/Draft Communications, labeled "PROPOSED" or "DRAFT"].

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

as

A. R. B.
May 11, 2005

TH
THOMAS A. DIXON
PAT. EXAMINER